

Attorney Docket No.: 5762.200-US
Application Serial No.: 09/577,694
Filed: May 22, 2000
Inventors: Sorensen et al.
Via Facsimile: 571-273-8300

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REMARKS

Applicants have amended the previously pending claims 63, 73, 75, 77, and 80 in this response.

All claims now require either (a) a stopper of an injection-mouldable material that has the claimed amount of a polyolefin and a butyl based rubber and less than or equal to 10% fillers and less than or equal to 1% additives, wherein the material comprises other than a thermoplastic elastomer (claims 63-74) or (b) a process for forming or s stopper of an injection-mouldable material that consists essentially of the claimed amount of a polyolefin and a butyl based rubber and less than or equal to 10% fillers and less than or equal to 1% additives (claims 75-85).

Applicants note that support for the amendments to claims 63, 73, 75, 77, and 80 can be found on the paragraph bridging pages 7-8, wherein thermoplastic elastomers are stated to be "less preferred."

In the August 17, 2005, Office Action , the Examiner rejected the claims as unpatentable over Kasai et al (US 4, 444,330) alone or in view of Rheude (U.S. 2,507,680) under 35 USC 103(a). Applicants respectfully traverse this rejection in view of the present amendments.

Kasai describes a stopper comprising an injection-mouldable material that has the constituents shown in the following table. The presently claimed invention, in the broadest claims, recites a

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stopper/medical container comprising (or consisting essentially of) an injection-mouldable material that has the constituents shown in the following table.

Kasai	Present Invention
Butyl based rubber (39-90% by wt.) (see Column 1, lines 45-50)	Butyl based rubber (70-90% by wt.)
Thermoplastic elastomer (70-10% by wt.) (see Column 1, lines 45-50)	Not present either by proviso or consisting essentially of language.
Olefin-based polymer (up to 30% by wt.) (see Column 1, lines 58-64)	Polyolefin (30-10% by wt.)
Fillers (up to 80% by wt.) (see Column 1, last paragraph)	Fillers (up to 10% by wt.)
Additives not taught	Additives (up to 1% by wt.)

As can be seen, the presently claimed invention, as amended, excludes, either by proviso or transitional language, the presence of a thermoplastic elastomer that is required by Kasai. Since the invention of Kasai is entirely based on the presence of a butyl based rubber AND a thermoplastic elastomer, there can be no reason provided by Kasai to remove an essential element of their invention. Applicants submit that the presently claimed invention cannot be considered obvious over Kasai since the presently claimed invention excludes a major component of the injection-mouldable material of Kasai. Rheude cannot cure this deficiency as it was merely recited to show a stopper with a pusher rod. In view of this, Applicants respectfully

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request withdrawal of the rejections over Kasai and Kasai/Rheude.

Conclusion

In view of the above, it is respectfully submitted that all claims are in condition for allowance. Early action to that end is respectfully requested. The Commissioner is hereby authorized to charge any fees in connection with this application and to credit any overpayments to Deposit Account No. 14-1447. The Examiner is hereby invited to contact the undersigned by telephone if there are any questions concerning this amendment or application.

Respectfully submitted,

Date: August 23, 2006



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